

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Skinner

February 16, 2010

An act to amend Sections 5007.7 and 6030 of, and to add Sections 3407 and 4023.7 to, the Penal Code, and to amend Sections 222 and 1774 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as introduced, Skinner. Pregnant inmates and wards: least restrictive restraints.

Existing law requires the Corrections Standards Authority to establish minimum standards for state and local correctional facilities and to review those standards biennially and make any appropriate revisions, as specified.

This bill would require that the standards, by January 1, 2012, ensure that inmates who are pregnant are restrained in the least restrictive way possible, consistent with the legitimate security needs of each inmate, when being transported. The bill would also require the authority to seek the advice of Correctional Medical Associates and the Academy of Correctional Health Professionals when establishing minimum standards for female inmates and pregnant inmates in local adult and juvenile facilities.

Under existing law, pregnant inmates of the Department of Corrections and Rehabilitation, wards of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and wards in the custody of a local juvenile facility, are to be transported in the least restrictive way possible when being taken to a hospital for purposes of childbirth.

This bill would require that inmates and wards of these facilities who are known or suspected to be pregnant be restrained in the least restrictive way possible, consistent with the legitimate security needs of each inmate or ward, when transported to and from their respective facilities.

This bill would state the intent of the Legislature that adult and juvenile state correctional facilities and local correctional and detention facilities shall develop policies to ensure that pregnant inmates are restrained in the least restrictive way, consistent with the legitimate security needs of each inmate or ward, for purposes of transportation to and from a correctional or detention facility.

Because this bill would require local officials to provide additional services, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3407 is added to the Penal Code, to read:
- 2 3407. (a) The Legislature finds and declares that the health
- 3 and safety of pregnant inmates shall be a primary concern of all
- 4 adult and juvenile state correctional facilities. The Legislature
- 5 further finds and declares that using restraints that significantly
- 6 limit a pregnant inmate's mobility can cause serious and undue
- 7 health risks to the woman and her pregnancy. Potentially harmful
- 8 methods of restraint include, but are not limited to, shackling by
- 9 the ankles, across the belly and by the wrists, by the wrists behind
- 10 the inmate's back, or to another person.
- 11 (b) It is the intent of the Legislature that adult and juvenile state
- 12 correctional facilities develop policies that ensure that inmates
- 13 who are known or suspected to be pregnant are restrained in the
- 14 least restrictive way possible, consistent with the legitimate security
- 15 needs of the inmate, for purposes of transportation to and from a

1 correctional facility. It is the Legislature's intent that these policies
2 meet the minimum standards established by the Corrections
3 Standards Authority for the proper use of restraints on pregnant
4 inmates during transport, as established pursuant to Section 6030.

5 SEC. 2. Section 4023.7 is added to the Penal Code, to read:

6 4023.7. (a) The Legislature finds and declares that the health
7 and safety of pregnant inmates shall be a primary concern of all
8 adult and juvenile local correctional and detention facilities. The
9 Legislature further finds and declares that using restraints that
10 significantly limit a pregnant inmate's mobility can cause serious
11 and undue health risks to the woman and her pregnancy. Potentially
12 harmful methods of restraint include, but are not limited to,
13 shackling by the ankles, across the belly and by the wrists, by the
14 wrists behind the inmate's back, or to another person.

15 (b) It is the intent of the Legislature that local correctional and
16 detention facilities develop policies that ensure that inmates who
17 are known or suspected to be pregnant are restrained in the least
18 restrictive way possible, consistent with the legitimate security
19 needs of the inmate, for purposes of transportation to and from a
20 correctional or detention facility. It is the Legislature's intent that
21 these policies meet the minimum standards established by the
22 Corrections Standards Authority for the proper use of restraints
23 on pregnant inmates during transport, as established pursuant to
24 Section 6030.

25 SEC. 3. Section 5007.7 of the Penal Code is amended to read:

26 ~~5007.7. Pregnant~~ (a) *Inmates who are known or suspected to*
27 *be pregnant shall be restrained in the least restrictive way possible,*
28 *consistent with the legitimate security needs of each inmate, when*
29 *being transported to and from a state correctional facility.*

30 (b) *Pregnant* inmates temporarily taken to a hospital outside
31 the prison for the purposes of childbirth shall be transported in the
32 least restrictive way possible, consistent with the legitimate security
33 needs of each inmate. Upon arrival at the hospital, once the inmate
34 has been declared by the attending physician to be in active labor,
35 the inmate shall not be shackled by the wrists, ankles, or both,
36 unless deemed necessary for the safety and security of the inmate,
37 the staff, and the public.

38 SEC. 4. Section 6030 of the Penal Code is amended to read:

39 6030. (a) The Corrections Standards Authority shall establish
40 minimum standards for state and local correctional facilities. ~~The~~

standards for state correctional facilities shall be established by January 1, 2007. The authority shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant are provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

(f) By January 1, 2012, the standards shall ensure that inmates who are known or suspected to be pregnant are restrained in the least restrictive way possible, consistent with the legitimate security needs of each inmate, when being transported to and from a state or local correctional facility.

~~(f)~~

(g) The standards shall provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7.

~~(g)~~

(h) In establishing minimum standards, the authority shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

1 (2) For fire and life safety:

2 The State Fire Marshal, local fire officials, and other interested
3 persons.

4 (3) For security, rehabilitation programs, recreation, and
5 treatment of persons confined in correctional facilities:

6 The Department of Corrections and Rehabilitation, state and
7 local juvenile justice commissions, state and local correctional
8 officials, experts in criminology and penology, and other interested
9 persons.

10 (4) For personnel training:

11 The Commission on Peace Officer Standards and Training,
12 psychiatrists, experts in criminology and penology, the Department
13 of Corrections and Rehabilitation, state and local correctional
14 officials, and other interested persons.

15 (5) For female inmates and pregnant inmates in local adult and
16 juvenile facilities:

17 The California State Sheriffs' Association—and, *the* Chief
18 Probation Officers' Association of California, *Correctional*
19 *Medical Associates*, *the Academy of Correctional Health*
20 *Professionals*, and other interested persons.

21 SEC. 5. Section 222 of the Welfare and Institutions Code is
22 amended to read:

23 222. (a) Any female in the custody of a local juvenile facility
24 shall have the right to summon and receive the services of any
25 physician and surgeon of her choice in order to determine whether
26 she is pregnant. If she is found to be pregnant, she is entitled to a
27 determination of the extent of the medical services needed by her
28 and to the receipt of those services from the physician and surgeon
29 of her choice. Any expenses occasioned by the services of a
30 physician and surgeon whose services are not provided by the
31 facility shall be borne by the female.

32 (b) *Wards who are known or suspected to be pregnant shall be*
33 *restrained in the least restrictive way possible, consistent with the*
34 *legitimate security needs of each ward, when transported to and*
35 *from a local juvenile facility.* A ward shall not be shackled by the
36 wrists, ankles, or both during labor, including during transport to
37 a hospital, during delivery, and while in recovery after giving birth,
38 subject to the security needs described in this section. ~~Pregnant~~
39 ~~wards temporarily taken to a hospital outside the facility for the~~
40 ~~purposes of childbirth shall be transported in the least restrictive~~

1 ~~way possible, consistent with the legitimate security needs of each~~
2 ~~ward.~~ Upon arrival at the hospital, once the ward has been declared
3 by the attending physician to be in active labor, the ward shall not
4 be shackled by the wrists, ankles, or both, unless deemed necessary
5 for the safety and security of the ward, the staff, and the public.

6 (c) For purposes of this section, “local juvenile facility” means
7 any city, county, or regional facility used for the confinement of
8 juveniles for more than 24 hours.

9 (d) The rights provided to females by this section shall be posted
10 in at least one conspicuous place to which all female wards have
11 access.

12 SEC. 6. Section 1774 of the Welfare and Institutions Code is
13 amended to read:

14 1774. (a) Any female who has been committed to the ~~authority~~
15 *Department of Corrections and Rehabilitation, Division of Juvenile*
16 *Facilities* shall have the right to summon and receive the services
17 of any physician and surgeon of her choice in order to determine
18 whether she is pregnant. The director may adopt reasonable rules
19 and regulations with regard to the conduct of examinations to
20 effectuate that determination.

21 (b) If she is found to be pregnant, she is entitled to a
22 determination of the extent of the medical services needed by her
23 and to the receipt of those services from the physician and surgeon
24 of her choice. Any expenses occasioned by the services of a
25 physician and surgeon whose services are not provided by the
26 facility shall be borne by the female.

27 (c) A ward who gives birth while under the jurisdiction of the
28 Department of Corrections and Rehabilitation, Division of Juvenile
29 Facilities; or a community treatment program has the right to the
30 following services:

31 (1) Prenatal care.

32 (2) Access to prenatal vitamins.

33 (3) Childbirth education.

34 (d) *Wards who are known or suspected to be pregnant shall be*
35 *restrained in the least restrictive way possible, consistent with the*
36 *legitimate security needs of each ward, when transported to and*
37 *from a juvenile facility.* A ward shall not be shackled by the wrists,
38 ankles, or both during labor, including during transport to a
39 hospital, during delivery, and while in recovery after giving birth,
40 subject to the security needs described in this section. ~~Pregnant~~

wards temporarily taken to a hospital outside the facility for the purposes of childbirth shall be transported in the least restrictive way possible, consistent with the legitimate security needs of each ward. Upon arrival at the hospital, once the ward has been declared by the attending physician to be in active labor, the ward shall not be shackled by the wrists, ankles, or both, unless deemed necessary for the safety and security of the ward, the staff, and the public.

(e) Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(f) The rights provided to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.